

Rule 263

Section 100

Complete Rule Making File

OAL Approval with Approved Text Rule 263

Index

1. *Form 400 and Proposed Rule 263*
2. *Statement of Explanation*
3. *Senate Bill 947*

Other Documents Relied upon

- A. *Chief Counsel Memo Dated 05/09/12*
- B. *Draft Minutes, 05/31/12*
- C. *Reporters Transcript, 05/31/12*

**State of California
Office of Administrative Law**

In re:

Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Adopt sections:

Amend sections: 263

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL File No. 2012-0613-04 N

The State Board of Equalization proposed to amend section 263 of title 18 of the California Code of Regulations to (1) eliminate a subdivision designation, (2) change the "S" in "Section" to lower case, and (3) add errors or omissions from failure to reflect a decline in taxable value of floating homes and manufactured homes to those incorrect entries on a roll that must be corrected within one year after making the assessment. The latter change was made to conform to changes made to Revenue and Taxation Code section 4831 by SB 947 (Stats. 2011, ch. 351). The proposed regulatory action was submitted to the Office of Administrative Law as a change without regulatory effect under section 100 of title 1 of the California Code of Regulations.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 7/3/2012

RAIG TARPENNING

**Craig S. Tarpenning
Senior Staff Counsel**

For:

**DEBRA M. CORNEZ
Director**

**Original: Kristine Cazadd
Copy: Richard Bennion**

**RECEIVED
JUL 03 2012
Board Proceedings**

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826



DEBRA M. CORNEZ
Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk
DATE: 7/6/2012
RE: Return of Approved Rulemaking Materials
OAL File No. 2012-0613-04N

OAL hereby returns this file your agency submitted for our review (OAL File No. 2012-0613-04N regarding Roll Corrections).

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved file is specified on the Form 400 (see item B.5). (Please Note: The 30th Day after filing with the Secretary of State is calculated from the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State.)

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions
reverse)

n

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2012-0613-04W	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED FILED
IN THE OFFICE OF

2012 JUL -3 PM 2:44


 DIANA BOWEN
 SECRETARY OF STATE

 AGENCY WITH RULEMAKING AUTHORITY
 State Board of Equalization

AGENCY FILE NUMBER (if any)


A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Roll Corrections		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
		AMEND	
TITLE(S) 18		263	
		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Richard E. Bennion		TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984
		E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE June 12, 2012
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 03 2012

Office of Administrative Law

Text of Proposed Changes to

Title 18. Public Revenue

Property Tax Rule 263. Roll Corrections.

(a) Any error or omission not involving the exercise of value judgment which results in an incorrect entry or entries on the roll may be corrected after the roll is delivered to the auditor, provided that the correction is made within four years after the making of the assessment that is being corrected.

~~(4)~~ If an error or omission not involving the exercise of value judgment is discovered as the result of an audit of a taxpayer's books and records, that error or omission may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of Division 1 of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) . . . (unchanged).

(d) . . . (unchanged).

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with ~~section~~Section 441) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

(h) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

(i) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

Memorandum

To : Craig Tarpenning
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Date: July 3, 2012

From : Richard Bennion
Regulations Coordinator
Board Proceedings Division, MIC: 80

Subject : *OAL File No. 2012-0613-04N*
Rule 263, Roll Correctionst

The Office of Administrative Law (OAL) is authorized to make the following substitutions and corrections in connection with the above-referenced rulemaking file:

1. Please replace the text with the attached text which adds the following: "of Division 1".

If you have any questions or comments, please notify me at (916) 445-2130 or email at Richard.Bennion@boe.ca.gov.

REB

Text of Proposed Changes to

Title 18. Public Revenue

Property Tax Rule 263. Roll Corrections.

(a) Any error or omission not involving the exercise of value judgment which results in an incorrect entry or entries on the roll may be corrected after the roll is delivered to the auditor, provided that the correction is made within four years after the making of the assessment that is being corrected.

~~(+)~~ If an error or omission not involving the exercise of value judgment is discovered as the result of an audit of a taxpayer's books and records, that error or omission may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of Division 1 of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

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(d) . . . (unchanged).

(e) . . . (unchanged).

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(i) . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

section 3000 was filed with the Secretary of State on December 9, 2011, and was effective on that date. CDCR certified completion of the rulemaking process and the final rule was filed with the Secretary of State on June 6, 2012, and was effective on that date.

For the reasons discussed above, we find that the rule challenged by your petition is not an underground regulation.³

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/
Debra M. Cornez
Assistant Chief Counsel/
Acting Director
/s/
Kathleen Eddy
Senior Counsel

Copy: Matthew Cate
Tim Lockwood

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916)

³ The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.

653–7715. Please have the agency name and the date filed (see below) when making a request.

File# 2012–0613–02
BOARD OF EQUALIZATION
Records

The State Board of Equalization amended section 3301 of title 18 of the California Code of Regulations to change the words “fee payer” to “feepayer” as a change without regulatory effect.

Title 18
California Code of Regulations
AMEND: 3301
Filed 07/03/2012
Agency Contact:
Richard E. Bennion (916) 445–2130

File# 2012–0613–04
BOARD OF EQUALIZATION
Roll Corrections

The State Board of Equalization amended section 263 of title 18 of the California Code of Regulations to (1) eliminate a subdivision designation, (2) change the “S” in “Section” to lower case, and (3) add errors or omissions from failure to reflect a decline in taxable value of floating homes and manufactured homes to those incorrect entries on a roll that must be corrected within one year after making the assessment. The latter change was made to conform to changes made to Revenue and Taxation Code section 4831 by SB 947 (Stats. 2011, ch. 351). The proposed regulatory action was submitted to the Office of Administrative Law as a change without regulatory effect under section 100 of title 1 of the California Code of Regulations.

Title 18
California Code of Regulations
AMEND: 263
Filed 07/03/2012
Agency Contact:
Richard E. Bennion (916) 445–2130

File# 2012–0606–01
BOARD OF PILOT COMMISSIONERS
Duties of Pilots and Inland Pilots

The Board of Pilot Commissioners (Board) amended section 219 of title 7 of the California Code of Regulations to delete language in subdivision (g) regarding the Port Agent’s responsibility to notify the Executive Director of the Board when the Port Agent becomes aware of a navigational incident involving a pilot. The requirement is more specifically provided for in subdivision (d)(7) of section 218.

Rule 263

Section 100

Index

1. [*Form 400 and Proposed Rule 263*](#)
2. [*Statement of Explanation*](#)
3. [*Senate Bill 947*](#)

NONSUBSTANTIVE

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER <i>2012-0613-04N</i>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY State Board of Equalization			AGENCY FILE NUMBER (if any)

ENDORSED FILED
IN THE OFFICE OF

2012 JUL -3 PM 2:44

John Bowen
JOHN BOWEN
SECRETARY OF STATE

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Roll Corrections		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) TITLE(S) 18		ADOPT AMEND 263 REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Richard E. Bennion		TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984 E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Joann Richmond</i>	DATE June 12, 2012
TYPED NAME AND TITLE OF SIGNATORY Joann Richmond, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUL 03 2012

Office of Administrative Law

Text of Proposed Changes to

Title 18. Public Revenue

Property Tax Rule 263. Roll Corrections.

(a) Any error or omission not involving the exercise of value judgment which results in an incorrect entry or entries on the roll may be corrected after the roll is delivered to the auditor, provided that the correction is made within four years after the making of the assessment that is being corrected.

~~(1)~~ If an error or omission not involving the exercise of value judgment is discovered as the result of an audit of a taxpayer's books and records, that error or omission may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of Division 1 of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) . . . (unchanged).

(d) . . . (unchanged).

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with ~~section~~Section 441) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

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(1) . . . (unchanged).

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Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenues Rule 263, *Roll Corrections*

A. Factual Basis

Chapter 2 (commencing with section 101) of division 1 of title 18 of the California Code of Regulations contains property tax rules the State Board of Equalization (BOE) has adopted in accordance with Government Code section 15606 to govern county assessors when assessing property under division 1, *Property Taxation*, (commencing with section 50) of the Revenue and Taxation Code (RTC). The BOE hereby proposes to reformat subdivision (a) of California Code of Regulations, title 18, section (Rule) 263, *Roll Corrections*, change subdivision (b) of Rule 263 to incorporate the amendments made to RTC section 4831 by Senate Bill No. (SB) 947 (Stats. 2011, ch. 351.), and replace “Section” with “section” in subdivision (g) of Rule 263 under California Code of Regulations, title 1, section (Rule) 100.

The second sentence in subdivision (a) of Rule 263 is formatted as subdivision (a)(1), even though the extra formatting is unnecessary because subdivision (a) only contains two sentences and there is no subdivision (a)(2). Accordingly, the BOE now proposes to reformat subdivision (a), under Rule 100, so that there is no longer a separate subdivision (a)(1).

RTC section 4831 prescribes the periods in which county assessors are authorized to correct errors and omissions on county assessment rolls and Rule 263, subdivision (b), incorporates the provisions of RTC section 4831, subdivision (c), prescribing the period in which an assessor is authorized to correct an “error or omission involving the exercise of assessor value judgment that arises solely from a failure to reflect a decline in the taxable value” of real property. Section 18 of SB 947 amended section 4831, subdivision (c), so that its provisions apply to errors and omissions involving “floating homes subject to taxation pursuant to Section 229 [of the RTC], and manufactured homes subject to taxation under Part 13 (commencing with section 5800)” of the RTC, in addition to errors and omissions regarding real property. Accordingly, the BOE proposes to change subdivision (b) of Rule 263, under Rule 100, to incorporate the amendments made to RTC section 4831 by SB 947.

Furthermore, subdivisions (b), (c), and (d) of Rule 263 use the term “section” to refer to sections of the RTC; however, subdivision (g) of Rule 263 uses the term “Section” to refer to RTC section 441. Accordingly, the BOE proposes to replace “Section” with “section” in Rule 263, subdivision (g), under Rule 100 so that the rule consistently uses the term “section” to refer to RTC sections.

B. Proposed Changes

Reformat Rule 263, subdivision (a), incorporate the amendments made to RTC section 4831 by SB 947 into Rule 263, subdivision (b), and replace “Section” with “section” in Rule 263, subdivision (g), under Rule 100.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, the changes are necessary to update the format of Rule 263, subdivision (a), make the rule consistent with the amendments made to RTC section 4831 by SB 947, and ensure that the rule uses consistent terminology to refer to RTC sections.

PROPOSED CHANGES

Change Rule 263 (Roll Corrections) to read as follows:

Property Tax Rule 263. Roll Corrections.

(a) Any error or omission not involving the exercise of value judgment which results in an incorrect entry or entries on the roll may be corrected after the roll is delivered to the auditor, provided that the correction is made within four years after the making of the assessment that is being corrected.

(1) If an error or omission not involving the exercise of value judgment is discovered as the result of an audit of a taxpayer's books and records, that error or omission may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

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Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

Senate Bill No. 947

CHAPTER 351

An act to amend Sections 63.1, 69, 69.3, 69.5, 74.5, 74.6, 276.2, 278, 483, 531.1, 830, 862, 1150, 1154, 2821, 4831, 5303, 11551, and 11596 of, to add Section 271.5 to, and to repeal Section 75.23 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 26, 2011. Filed with
Secretary of State September 26, 2011.]

LEGISLATIVE COUNSEL'S DIGEST

SB 947, Committee on Governance and Finance. Property taxation.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, "full cash value" is defined as the assessor's valuation of real property as shown on the 1975–76 tax bill under "full cash value" or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. However, the California Constitution and existing property tax law exclude from a "change in ownership" real property transfers of a principal residence and the first \$1,000,000 of the value of other real property between parents and their children, as defined by the Legislature. Existing law defines "real property" to mean the possession of, claim to, ownership of, or right to possession of land; all mines, minerals, and quarries in the land; and improvements to the land. However, real property does not include an interest in a legal entity.

This bill would define real property for purposes of the parent-child principal residence exclusion to include an interest in a unit or lot within a cooperative housing corporation, as defined.

By changing the manner in which local assessors assess property for purposes of the parent-child principal residence exclusion, and by expanding the crime of perjury by requiring that certain information required be verified under oath, this bill would impose a state-mandated local program.

(2) The California Constitution and existing property tax law authorize the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, to be transferred to comparable property within the same county, which is acquired within 5 years after the disaster, as provided. Existing property tax law authorizes a county board of supervisors to adopt an ordinance that authorizes the transfer, subject to specified conditions and limitations, of the base year value of property that is located within another county in this state and that has been substantially damaged or destroyed by a disaster to comparable replacement property, as provided. Existing property tax law provides that a property is substantially damaged or destroyed if the land or the improvements sustain

physical damage amounting to more than 50% of its full cash value immediately prior to the disaster.

This bill would, commencing with the 2012–13 fiscal year, provide that property is substantially damaged or destroyed if either the land or the improvements sustain physical damage amounting to more than 50% of either the land's or the improvement's full cash value immediately prior to the disaster.

By changing the manner in which local assessors assess property for purposes of the property tax relief described above, this bill would impose a state-mandated local program.

(3) The California Constitution and existing property tax law authorize a person who is either severely disabled or over 55 years of age to transfer the base year value, as defined, of specified property to a replacement dwelling located within the same county, except as otherwise provided, as the property from which the base year value is transferred if, among other things, the person claiming the property tax relief is an owner or resident of the original property at the time when the original property was substantially damaged or destroyed by misfortune or calamity. Existing property tax law provides that a property is substantially damaged or destroyed by misfortune or calamity if it sustains physical damage to more than 50% of its full cash value immediately prior to the damaging event.

This bill would, commencing with the 2012–13 fiscal year, provide that property is substantially damaged or destroyed by misfortune or calamity if either the land or improvements sustain physical damage amounting to more than 50% of the property's full cash value immediately prior to the misfortune or calamity.

By changing the manner in which local assessors assess property for purposes of the property tax relief described above, this bill would impose a state-mandated local program.

(4) Existing property tax law allows a person over the age of 55 years or a severely and permanently disabled person to transfer the base year value of his or her property, if that property is eligible for the homeowners' exemption, to any replacement dwelling of equal or lesser value, as specified. This law requires an owner to notify the assessor in writing of the completion of new construction to a replacement dwelling within 30 days of completion.

This bill would extend the amount of time that an owner has to notify the assessor of the completion of new construction to within 6 months of completion.

(5) Pursuant to an authorization in the California Constitution, existing property tax law excludes from classification as "newly constructed" and "new construction" the construction or reconstruction on that portion of an existing structure of seismic retrofitting components. Existing property tax law, for purposes of this exclusion from classification as "newly constructed," provides that "seismic retrofitting" includes those items referenced in the Uniform Code for Building Conservation of the International Conference of Building Officials, and requires "improvements

utilizing earthquake hazard mitigation technologies” to use, among others, technologies referenced in the Uniform Building Code.

This bill would update obsolete references to the Uniform Code for Building Conservation of the International Conference of Building Officials and to the Uniform Building Code, by instead referring to the International Existing Building Code of the International Code Council and to the International Building Code.

(6) Pursuant to an authorization in the California Constitution, existing property tax law excludes from classification as “newly constructed” and “new construction” the construction, installation, removal, or modification of a portion or structural component of an existing building or structure on or after June 7, 1994, to the extent that it is done for the purpose of making the building more accessible to, or more usable by, a disabled person.

The bill would make a technical, nonsubstantive change to correct an obsolete reference.

(7) Existing property tax law specifies, with regard to a supplemental assessment, that property tax exemptions shall not apply to a property as of the date of a change in ownership if the transferee did not otherwise qualify for that exemption on the date of the change in ownership.

This bill would delete this provision.

(8) Existing property tax law provides for an exemption, as specified, for property that is used for college, cemetery, church, religious, exhibition, veterans’ organization, tribal housing, or welfare purposes if certain conditions are met, as specified. Existing property tax law also provides for an exemption, as specified, of the home of a disabled veteran, or a veteran’s spouse in the case in which the veteran has, as a result of a service-connected disease or injury, died while on active duty in military service, and specifies the termination of this exemption upon that subject property being transferred to a 3rd party that is not eligible for that exemption.

This bill would specify the termination of the college, cemetery, church, religious, exhibition, veterans’ organization, tribal housing, or welfare exemptions upon the subject property being transferred to a 3rd party that is not eligible for that exemption. The bill would make related changes.

By changing the manner in which property tax assessments are administered by county assessors, this bill would impose a state-mandated local program.

(9) Existing property tax law provides for the disabled veterans’ property tax exemption contingent upon a claim being filed, as specified. Existing property tax law requires, if property becomes eligible for the exemption after the lien date and an appropriate application is filed on or before the lien date in the calendar year next following the calendar year in which the property became eligible, the refund or cancellation of taxes on that portion of the assessed value of the property that would have been exempt under a timely and appropriate application.

This bill would, instead, require the refund or cancellation of taxes, if an appropriate application for the exemption is filed on the later of 90 days

after the date on which the property became eligible or on or before the next following lien date.

(10) Existing property tax law requires the county assessor each year to mail a notice to all disabled veterans who received the disabled veterans' property tax exemption in the immediately preceding year, as specified.

This bill would instead require, prior to the lien date, the assessor to annually mail a notice to all claimants who received the disabled veterans' property tax exemption in the immediately preceding year.

By requiring local officials to additionally provide notice to a disabled veteran's spouse and an unmarried surviving spouse who received the disabled veterans' property tax exemption, this bill would impose a state-mandated local program.

(11) Existing property tax law requires a person or legal entity to file a change in ownership statement whenever there occurs any change in ownership of real property or of a manufactured home, as specified, whenever a person or entity obtains a controlling or majority ownership interest in a legal entity, or whenever an entity makes specified transfers of ownership interests in the legal entity. Existing law imposes a penalty if a person or legal entity required to file a change in ownership statement fails to do so within a specified time period from the date of a written request by either the assessor or the State Board of Equalization, as applicable. Existing property tax law authorizes the county board of supervisors to order this penalty abated, if an assessee establishes that the failure to file a change in ownership statement within a specified time period was due to reasonable cause and not due to willful neglect, and the assessee has filed the change in ownership statement with either the assessor or the State Board of Equalization, as applicable, and an application for abatement of the penalty with the county board of supervisors, as provided.

This bill would, instead, authorize the county board of equalization or the assessment appeals board to order the penalty abated, and would, instead, require an application for abatement of the penalty to be filed with the county board of equalization or the assessment appeals board.

(12) The California Constitution requires the State Board of Equalization to assess the property, other than franchises, of specified types of entities. Existing property tax law provides for the valuation, as a unit, of properties of a state assessee that are operated as a unit as a primary function of that assessee.

Existing property tax law requires a state assessee, upon the board's request, and in compliance with the applicable deadlines, to file a property statement relating to its state-assessed property. Existing law imposes penalties upon a taxpayer's failure to timely file a required property statement, including a penalty of 10% of unitary value with respect to that part of the property statement relating to the development of the unitary value of operating property, and a penalty of 10% of the allocated value of property with respect to that part of the property statement that lists or describes specific operating property, and requires the imposition of an additional 25% penalty if the failure to file is a willful or fraudulent attempt

to evade tax. Existing law also imposes an additional 10% penalty, as specified, upon the failure of a state assessee to either timely file a property statement or to accurately report taxable tangible personal property on a property statement, if that failure requires the board to make a subsequent assessment of the value of property that escaped assessment, and requires the imposition of an additional 25% penalty if the failure to file or report is willful or fraudulent. Existing law authorizes the board to abate these penalties if the assessee establishes that the failure to file was due to reasonable cause, but only if the assessee timely files an application for abatement of the penalty.

This bill would expressly provide for the board to abate the penalties, as described above, in whole or in part.

(13) Existing property tax law establishes various requirements and procedures for the assessment of property and the compilation of the tax assessment rolls. Existing property tax law generally authorizes the correction, subject to specified time requirements, of any error that results in an incorrect entry on the property tax roll, except for, among other things, an error that involves the exercise of value judgment, but authorizes the correction of any error or omission involving the exercise of a value judgment that arises solely from a failure to reflect a decline in taxable value of real property, as provided.

This bill would extend this authority to correct the roll with regard to an error or omission involving the exercise of a value judgment that arises solely from a failure to reflect a decline in taxable value, to floating homes and manufactured homes, as provided.

(14) The Private Railroad Car Tax Law imposes a tax, computed as specified, on private railroad cars, as defined, operated in this state, and is administered by the State Board of Equalization. Existing law requires the board, once it proposes to make a determination to grant a refund for the overpayment of that tax of over \$15,000 or a cancellation of amounts due of over \$15,000, to make those proposed determinations available as a public record for a specified amount of time, as provided.

This bill would raise the threshold for the public record requirement regarding the State Board of Equalization's determinations in the above-described circumstances to \$50,000.

(15) Existing property tax law requires the personal property of an aircraft be taxed at its fair market value, and the California Constitution requires property subject to ad valorem property taxation to be assessed in the county in which it is situated. This law defines "certificated aircraft," "air taxi," and "aircraft."

This bill would replace obsolete statutory references to the "Civil Aeronautics Board of the United States" with the "Federal Aviation Administration," would delete other obsolete statutory references to the "California Public Utilities Commission" in these definitions, and would make other technical, nonsubstantive changes.

(16) Existing property tax law authorizes any person filing an affidavit of interest to apply to the tax collector to have any parcel separately valued

on the current roll for the purpose of paying taxes, and requires the application to be made during the current fiscal year and to set forth specific information describing the parcel sought to be separately valued. Existing law authorizes a county, upon approval of the board of supervisors, to prohibit these applications during the 10 working days preceding each tax installment delinquency date and during the 10 working days preceding June 30 of each year.

This bill would instead authorize the county to allow these applications between July 1 and March 31.

(17) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(18) Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

The people of the State of California do enact as follows:

SECTION 1. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) (A) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(B) A purchase or transfer of a principal residence from a foster child to the child's biological parent shall not be excluded under subparagraph (A) if the transferor child received that principal residence, or interest therein, from a foster parent through a purchase or transfer that was excluded under subparagraph (A).

(2) The purchase or transfer of the first one million dollars (\$1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer. Notwithstanding any other provision of law, for the lien date for the 2006–07 fiscal year and each fiscal year thereafter, in determining whether “all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer,” a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the one million dollar (\$1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), “principal residence” means a dwelling that is eligible for a homeowners’ exemption or a disabled veterans’ exemption as a result of the transferor’s ownership and occupation of the dwelling. “Principal residence” includes only that portion of the land underlying the residence that consists of an area of reasonable size that is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one-million-dollar (\$1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor’s interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one-million-dollar (\$1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this

election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent's death, if the decedent died on or after November 6, 1986.

(2) "Purchase or transfer of real property between grandparents and their grandchild or grandchildren" means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death. Notwithstanding any other provision of law, for the lien date for the 2006–07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(3) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(E) Any foster child of a state-licensed foster parent, if that child was not, because of a legal barrier, adopted by the foster parent or foster parents before the child aged out of the foster care system. For purposes of this paragraph, the relationship between a foster child and foster parent shall be deemed to exist until terminated by death. However, for purposes of a

transfer that occurs on the date of death, the relationship shall be deemed to exist on the date of death.

(4) “Grandchild” or “grandchildren” means any child or children of the child or children of the grandparent or grandparents.

(5) “Full cash value” means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(6) “Eligible transferor” means a grandparent, parent, or child of an eligible transferee.

(7) “Eligible transferee” means a parent, child, or grandchild of an eligible transferor.

(8) “Real property” means real property as defined in Section 104. Real property does not include any interest in a legal entity. For purposes of this section, real property includes an interest in a unit or lot within a cooperative housing corporation, as defined in subdivision (i) of Section 61.

(9) “Transfer” includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(10) “Social security number” also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(d) (1) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee, the transferee’s legal representative, the trustee of the transferee’s trust, or the executor or administrator of the transferee’s estate files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(A) A written certification by the transferee, the transferee’s legal representative, the trustee of the transferee’s trust, or the executor or administrator of the transferee’s estate, signed and made under penalty of perjury that the transferee is a parent, child, or grandchild of the transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) A written certification by the transferor, the transferor’s legal representative, the trustee of the transferor’s trust, or the executor or

administrator of the transferor's estate, signed and made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee and that the transferor is seeking the exclusion under this section and will not file a claim to transfer the base year value of the property under Section 69.5.

(C) A written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the social security number of each eligible transferor, and the names of the eligible transferees of that property.

(D) If there are multiple transferees, the certification and signature may be made by any one of the transferees, if both of the following conditions are met:

(i) The transferee has actual knowledge that, and the certification signed by the transferee states that, all of the transferees are eligible transferees within the meaning of this section.

(ii) The certification is signed by the transferee as a true statement made under penalty of perjury.

(E) In the case of a transfer between a foster parent and foster child, the claim filed with the assessor shall include a certified copy of the court decision regarding the foster child status of the individual and a certified statement from the appropriate county agency stating that the foster child was not, because of a legal barrier, adopted by the foster parent or foster parents. Upon a request by the county assessor, the claimant also shall provide to the assessor legal substantiation of any matter certified under this subparagraph.

(2) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee from the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (d) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

(e) (1) The State Board of Equalization shall design the form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed:

(A) For transfers of real property between parents and their children occurring prior to September 30, 1990, within three years after the date of the purchase or transfer of real property for which the claim is filed.

(B) For transfers of real property between parents and their children occurring on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996, within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier.

(C) Notwithstanding subparagraphs (A) and (B), a claim shall be deemed to be timely filed if it is filed within six months after the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this section that is filed subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any exclusion granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (A) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(3) (A) Unless otherwise expressly provided, the provisions of this subdivision shall apply to any purchase or transfer of real property that occurred on or after November 6, 1986.

(B) Paragraph (2) shall apply to purchases or transfers between parents and their children that occurred on or after November 6, 1986, and to purchases or transfers between grandparents and their grandchildren that occurred on or after March 27, 1996.

(4) For purposes of this subdivision, a transfer of real property to a parent or child of the transferor shall not be considered a transfer to a third party.

(f) The assessor may report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to subdivision (d). Each report shall contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion

claimed, the social security number of each eligible transferor, and any other information the board may require in order to monitor the one-million-dollar (\$1,000,000) limitation in paragraph (2) of subdivision (a). In recognition of the state and local interests served by the action made optional in this subdivision, the Legislature encourages the assessor to continue taking the action formerly mandated by this subdivision.

(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.

(h) (1) Except as provided in paragraph (2), this section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(i) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, the trustee of the transferee's trust, the trustee of the transferor's trust, and the executor or administrator of the transferee's or transferor's estate.

(j) (1) If the assessor notifies the transferee in writing of potential eligibility for exclusion from change in ownership under this section, a certified claim for exclusion shall be filed with the assessor within 45 days of the date of the notice of potential eligibility. If a certified claim for exclusion is not filed within 45 days, the assessor may send a second notice of potential eligibility for exclusion, notifying the transferee that a certified claim for exclusion has not been received and that reassessment of the property will commence unless a certified claim for exclusion is filed within 60 days of the date of the second notice of potential eligibility. The second notice of potential eligibility shall indicate whether a certified claim for exclusion that is not filed within 60 days will be subject to a processing fee as provided in paragraph (2).

(2) If a certified claim for exclusion is not filed within 60 days of the date of the second notice of potential eligibility and an eligible transferee subsequently files a claim and qualifies for the exclusion, the assessor may, upon authorization by a county board of supervisors, require an eligible transferee to pay a one-time processing fee, collected at the time the claim is submitted, and reimbursed by the assessor if the claim is ineligible. The fee shall be subject to the provisions of Chapter 12.5 (commencing with

Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code and shall not exceed the amount of the actual and reasonable costs incurred by the assessor for reassessment work done due to failure to file the claim for exclusion or one hundred seventy-five dollars (\$175), whichever is less.

(3) The failure to file a certified claim for exclusion within the filing periods specified by this subdivision shall not be construed to limit any exclusion from being granted pursuant to a claim filed within the filing periods specified by subdivision (e).

SEC. 2. Section 69 of the Revenue and Taxation Code is amended to read:

69. (a) Notwithstanding any other law, pursuant to Section 2 of Article XIII A of the Constitution, the base year value of property that is substantially damaged or destroyed by a disaster, as declared by the Governor, may be transferred to comparable property within the same county, which is acquired or newly constructed within five years after the disaster, including in the case of the Northridge earthquake, as a replacement for the substantially damaged or destroyed property. At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property, the substantially damaged or destroyed property shall be reassessed at its full cash value; however, the substantially damaged or destroyed property shall retain its base year value notwithstanding the transfer authorized by this section. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(b) The replacement base year value of the replacement property acquired shall be determined in accordance with this section.

The assessor shall use the following procedure in determining the appropriate replacement base year value of comparable replacement property:

(1) If the full cash value of the comparable replacement property does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed, then the adjusted base year value of the property substantially damaged or destroyed shall be transferred to the comparable replacement property as its replacement base year value.

(2) If the full cash value of the replacement property exceeds 120 percent of the full cash value of the property substantially damaged or destroyed, then the amount of the full cash value over 120 percent of the full cash value of the property substantially damaged or destroyed shall be added to the adjusted base year value of the property substantially damaged or destroyed. The sum of these amounts shall become the replacement property's replacement base year value.

(3) If the full cash value of the comparable replacement property is less than the adjusted base year value of the property substantially damaged or destroyed, then that lower value shall become the replacement property's base year value.

(4) The full cash value of the property substantially damaged or destroyed shall be the amount of its full cash value immediately prior to its substantial

damage or destruction, as determined by the county assessor of the county in which the property is located.

(c) For purposes of this section:

(1) Property is substantially damaged or destroyed if either the land or the improvements sustain physical damage amounting to more than 50 percent of either the land's or the improvement's full cash value immediately prior to the disaster. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(2) Replacement property is comparable to the property substantially damaged or destroyed if it is similar in size, utility, and function to the property which it replaces.

(A) Property is similar in function if the replacement property is subject to similar governmental restrictions, such as zoning.

(B) Both the size and utility of property are interrelated and associated with value. Property is similar in size and utility only to the extent that the replacement property is, or is intended to be, used in the same manner as the property substantially damaged or destroyed and its full cash value does not exceed 120 percent of the full cash value of the property substantially damaged or destroyed.

(i) A replacement property or any portion thereof used or intended to be used for a purpose substantially different than the use made of the property substantially damaged or destroyed shall to the extent of the dissimilar use be considered not similar in utility.

(ii) A replacement property or portion thereof that satisfies the use requirement but has a full cash value that exceeds 120 percent of the full cash value of the property substantially damaged or destroyed shall be considered, to the extent of the excess, not similar in utility and size.

(C) To the extent that replacement property, or any portion thereof, is not similar in function, size, and utility, the property, or portion thereof, shall be considered to have undergone a change in ownership when the replacement property is acquired or newly constructed.

(3) "Disaster" means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(d) (1) This section applies to any comparable replacement property acquired or newly constructed on or after July 1, 1985.

(2) The amendments made by Chapter 1053 of the Statutes of 1993 apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and fiscal years thereafter.

(3) The amendments made by Chapter 317 of the Statutes of 2006 apply to any comparable replacement property that is acquired or newly constructed as a replacement for property substantially damaged or destroyed by a disaster occurring on or after July 1, 2003, and to the determination of base year values for the 2003–04 fiscal year and fiscal years thereafter.

(e) Only the owner or owners of the property substantially damaged or destroyed, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall receive property tax relief under this section. Relief under this section shall be granted to an owner or owners of substantially damaged or destroyed property obtaining title to replacement property. The acquisition of an ownership interest in a legal entity, which directly or indirectly owns real property, is not an acquisition of comparable property.

(f) Notwithstanding any other law, the board of supervisors of the County of San Diego may by ordinance extend the time period specified in subdivision (a) to transfer the base year value of property that is substantially damaged or destroyed by the Cedar Fire that commenced in October 2003, as declared by the Governor, to comparable property within the same county that is acquired or newly constructed as a replacement for the substantially damaged or destroyed property by two years. This subdivision shall apply to the determination of base year values for the 2003–04 fiscal year and fiscal years thereafter.

(g) The amendments made to this section by the act adding this subdivision shall apply commencing with the lien date for the 2012–13 fiscal year.

SEC. 3. Section 69.3 of the Revenue and Taxation Code is amended to read:

69.3. (a) (1) Notwithstanding any other law, pursuant to the authority of paragraph (3) of subdivision (e) of Section 2 of Article XIII A of the California Constitution, a county board of supervisors, after consultation with affected local agencies located within the boundaries of the county, may adopt an ordinance that authorizes the transfer, subject to the conditions and limitations of this section, of the base year value of real property that is located within another county in this state and has been substantially damaged or destroyed by a disaster to comparable replacement property, including land, of equal or lesser value that is located within the adopting county and has been acquired or newly constructed as a replacement for the damaged or destroyed property within three years after the damage or destruction of the original property.

(2) The base year value of the original property shall be the base year value of the original property as determined in accordance with Section 110.1, with the inflation factor adjustments permitted by subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property was substantially damaged or destroyed. The base year value of the original property shall also include any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the date of the substantial damage to, or destruction of, the original property and up to the date the replacement property is acquired or newly constructed, regardless of whether the claimant continued to own the original property during this entire period. The base year or years used to compute the base year value of the original property shall be deemed to be

the base year or years of any property to which that base year value is transferred pursuant to this section.

(b) For purposes of this section:

(1) “Affected local agency” means any city, special district, school district, or community college district that receives an annual allocation of ad valorem property tax revenues.

(2) “Claimant” means an owner or owners of real property claiming the property tax relief provided by this section.

(3) “Comparable replacement property” means a replacement property that has a full cash value of equal or lesser value as defined in paragraph (6).

(4) “Consultation” means a noticed hearing that is conducted by a county board of supervisors concerning the adoption of an ordinance described in subdivision (a) and with respect to which all affected local agencies within the boundaries of the county are provided with reasonable notice of the time and the place of the hearing and a reasonable opportunity to appear and participate.

(5) “Disaster” means a major misfortune or calamity in an area subsequently proclaimed by the Governor to be in a state of disaster as a result of the misfortune or calamity.

(6) “Equal or lesser value” means that the amount of the full cash value of the replacement property does not exceed one of the following:

(A) One hundred five percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the first year following the date of the damage or destruction of the original property.

(B) One hundred ten percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the second year following the date of the damage or destruction of the original property.

(C) One hundred fifteen percent of the amount of the full cash value of the original property if the replacement property is purchased or newly constructed within the third year following the date of the damage or destruction of the original property.

For purposes of this paragraph, if the replacement property is, in part, purchased and, in part, newly constructed, the date the “replacement property is purchased or newly constructed” is the date of the purchase or the date of completion of new construction, whichever is later.

(7) “Full cash value of the original property” means its full cash value, as determined in accordance with Section 110, immediately prior to its substantial damage or destruction, as determined by the county assessor of the county in which the property is located.

(8) “Full cash value of the replacement property” means its full cash value, as determined in accordance with Section 110.1 as of the date upon which it was purchased or new construction was completed, that is applicable on and after that date.

(9) “Original property” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated, that has been substantially damaged or destroyed by a disaster. For purposes of this paragraph, land constituting a part of original property includes only that area of reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. For purposes of this paragraph, each unit of a multiunit dwelling shall be considered a separate original property.

(10) “Owner or owners” means an individual or individuals, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(11) “Replacement property” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the replacement property includes only that area of reasonable size that is used as the site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. For purposes of this paragraph, each unit of a multiunit dwelling shall be considered a separate replacement property. “Replacement property” does not include any property, including land or improvements, if the claimant owned any portion of that property prior to the date of the disaster that damaged or destroyed the original property.

(12) “Substantially damaged or destroyed” means property where either the land or the improvements sustain physical damage amounting to more than 50 percent of either the land’s or the improvement’s full cash value immediately prior to the disaster. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the disaster and is permanent in nature.

(c) At the time the base year value of the substantially damaged or destroyed property is transferred to the replacement property pursuant to an ordinance adopted under this section, the substantially damaged or destroyed property shall be reassessed at its full cash value. However, the substantially damaged or destroyed property shall retain its base year value notwithstanding that transfer. If the owner or owners of substantially damaged or destroyed property receive property tax relief under this section, that property shall not be eligible for property tax relief under subdivision (c) of Section 70 in the event of its reconstruction.

(d) Only the owner or owners of the property that has been substantially damaged or destroyed may receive property tax relief under an ordinance adopted pursuant to this section. Relief under an ordinance adopted pursuant

to this section shall be granted to an owner or owners of a substantially damaged or destroyed property obtaining comparable replacement property. The acquisition of an ownership interest in a legal entity that, directly or indirectly, owns real property is not an acquisition of comparable replacement property for purposes of this section.

(e) A timely claim for relief under an ordinance adopted pursuant to this section, in that form as shall be prescribed by the board, shall be filed by the owner with the assessor of the county in which the replacement property is located. No relief under an ordinance adopted pursuant to this section shall be granted unless the claim is filed no later than January 1, 1996, or within three years after the replacement property is acquired or newly constructed, whichever is later.

(f) Any taxes that were levied on the replacement property prior to the filing of a claim on the basis of the replacement property's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(g) This section shall apply to any comparable replacement property of equal or lesser value that is acquired or newly constructed as a replacement for property that has been substantially damaged or destroyed by a disaster occurring on or after October 20, 1991, and to the determination of base year values for the 1991–92 fiscal year and each fiscal year thereafter.

(h) The amendments made to this section by the act adding this subdivision shall apply commencing with the lien date for the 2012–13 fiscal year.

SEC. 4. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowners' exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings

are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) It provides that its provisions are operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowners' exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowners' exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of

abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) Except as otherwise provided in paragraph (2) of subdivision (a), the replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A manufactured home or a manufactured home and any land owned by the claimant on which the manufactured home is situated. For purposes of this paragraph, "land owned by the claimant" includes a pro rata interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(A) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the manufactured home or the base year value of the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the original property of

the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer to the claimant's replacement dwelling the base year value of the claimant's manufactured home and his or her pro rata portion of the real property of the park. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g).

(B) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the manufactured home or the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the replacement dwelling of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer the base year value of the claimant's original property to the manufactured home of the claimant and his or her pro rata portion of the park. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of the original property, as a joint tenant, a tenant in common, a community property owner, or a present beneficiary of a trust subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1,

whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) (1) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that shall be designed by the State Board of Equalization and that the assessor shall make available upon request, the following information:

(A) The name and social security number of each claimant and of any spouse of the claimant who is a record owner of the replacement dwelling.

(B) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(i) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(ii) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(C) The address and, if known, the assessor's parcel number of the original property.

(D) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(E) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

(F) Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed subject to subdivision (k) or (m).

(2) A claim for transfer of base year value under this section that is filed after the expiration of the filing period set forth in subparagraph (F) of paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any base year value transfer granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) The full cash value of the replacement property in the assessment year described in subparagraph (A) shall be the base year value of the real property in the assessment year in which the base year value was transferred, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property that does not qualify for property tax relief pursuant to the criteria set forth in subparagraphs (A) and (B) of paragraph (4) of subdivision (h).

(g) For purposes of this section:

(1) “Person over the age of 55 years” means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of the original property.

(2) “Base year value of the original property” means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant, or in the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, determined as of the date immediately prior to the misfortune or calamity.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, “base year value of the original property” also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the “base year value of the original property” shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) “Replacement dwelling” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of

reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate replacement dwelling. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the claimant” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(4) “Original property” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the original property includes only that area of reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the claimant” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(5) “Equal or lesser value” means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the “replacement dwelling is purchased or newly constructed” is the date of purchase or the date of completion of construction, whichever is later.

(6) “Full cash value of the replacement dwelling” means its full cash value, determined in accordance with Section 110.1, as of the date on which

it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) “Full cash value of the original property” means, either:

(A) Its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(B) In the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, its full cash value, as determined in accordance with Section 110, immediately prior to its substantial damage or destruction by misfortune or calamity, as determined by the county assessor of the county in which the property is located, without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) “Sale” means any change in ownership of the original property for consideration.

(9) “Claimant” means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) “Property that is eligible for the homeowners’ exemption” includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) “Person” means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind. “Person” includes an individual who is the present beneficiary of a trust.

(12) “Severely and permanently disabled” means any person described in subdivision (b) of Section 74.3.

(13) For the purposes of this section, property is “substantially damaged or destroyed by misfortune or calamity” if either the land or the improvements sustain physical damage amounting to more than 50 percent of either the land’s or the improvement’s full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity and is permanent in nature.

(h) (1) Upon the timely filing of a claim described in subparagraph (F) of paragraph (1) of subdivision (f), the assessor shall adjust the new base

year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

- (A) The date the original property is sold.
- (B) The date the replacement dwelling is purchased.
- (C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling's new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within six months after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), and the assessor shall grant the rescission, if a written notice of rescission is delivered to the office of the assessor as follows:

(1) A written notice of rescission signed by the original filing claimant or claimants is delivered to the office of the assessor in which the original claim was filed.

(2) (A) Except as otherwise provided in this paragraph, the notice of rescission is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any

portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(B) Notwithstanding any other provision in this division, any time the notice of rescission is delivered to the office of the assessor within six years after relief was granted, provided that the replacement property has been vacated as the claimant's principal place of residence within 90 days after the original claim was filed, regardless of whether the property continues to receive the homeowners' exemption. If the rescission increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in Section 506, shall be imposed. The limitations periods for any escape assessments or supplemental assessments shall not commence until July 1 of the assessment year in which the notice of rescission is delivered to the office of the assessor.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, except as provided in paragraph (4), this section shall apply to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after October 20, 1991, and shall apply commencing with the 1991–92 fiscal year.

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph may not be construed as a waiver of any other requirement of this section.

(2) In the case in which a county assessor corrects a base year value to reflect a pro rata change in ownership of a resident-owned mobilehome park that occurred between January 1, 1989, and January 1, 2002, pursuant to paragraph (4) of subdivision (b) of Section 62.1, those claimants who purchased or constructed replacement dwellings more than three years prior to the correction and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years of the date of notice of the correction of the base year value to reflect the pro rata change in ownership. This paragraph may not be construed as a waiver of any other requirement of this section.

(3) This subdivision does not apply to a claimant who has transferred his or her replacement dwelling prior to filing a claim.

(4) The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(l) No escape assessment may be levied if a transfer of base year value under this section has been erroneously granted by the assessor pursuant to an expired ordinance authorizing intercounty transfers of base year value.

(m) (1) The amendments made to subdivisions (b) and (g) of this section by Chapter 613 of the Statutes of 2001 shall apply:

(A) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(B) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but not to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

(C) With respect to the transfer of base year value by a severely and permanently disabled person, to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(2) The property tax relief provided by this section in accordance with this subdivision shall apply prospectively only commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(n) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the claimant or the claimant's spouse, the claimant's or the claimant's spouse's legal representative, the trustee of a trust in which the claimant or the claimant's spouse is a present beneficiary, and the executor or administrator of the claimant's or the claimant's spouse's estate.

(o) The amendments made to this section by the act adding this subdivision shall apply commencing with the lien date for the 2012–13 fiscal year.

SEC. 5. Section 74.5 of the Revenue and Taxation Code is amended to read:

74.5. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, “newly constructed” and “new construction” does not include that portion of an existing structure that consists of the construction or reconstruction of seismic retrofitting components, as defined in this section.

(b) For purposes of this section, all of the following apply:

(1) “Seismic retrofitting components” means seismic retrofitting improvements and improvements utilizing earthquake hazard mitigation technologies.

(2) “Seismic retrofitting improvements” means retrofitting or reconstruction of an existing building or structure, to abate falling hazards from structural or nonstructural components of any building or structure including, but not limited to, parapets, appendages, cornices, hanging objects, and building cladding that pose serious danger. “Seismic retrofitting improvements” also means either structural strengthening or providing the means necessary to resist seismic force levels that would otherwise be experienced by an existing building or structure during an earthquake, so as to significantly reduce hazards to life and safety while also providing for the substantially safe ingress and egress of building occupants during and immediately after an earthquake. “Seismic retrofitting improvements” does not include alterations, such as new plumbing, electrical, or other added finishing materials, made in addition to seismic-related work performed on an existing structure. “Seismic retrofitting” includes, but is not limited to, those items referenced in Appendix A of the International Existing Building Code of the International Code Council.

(3) “Improvements utilizing earthquake hazard mitigation technologies” means improvements to existing buildings identified by a local government as being hazardous to life in the event of an earthquake. These improvements shall involve strategies for earthquake protection of structures. These improvements shall use technologies such as those referenced in Part 2 (commencing with Section 1.1.1.) of Title 24 of the California Building Code and similar seismic provisions in the International Building Code.

(c) The property owner, primary contractor, civil or structural engineer, or architect shall certify to the building department those portions of the project that are seismic retrofitting components, as defined in this section. Upon completion of the project, the building department shall report to the county assessor the costs of the portions of the project that are seismic retrofitting components.

(d) In order to receive the exclusion, the property owner shall notify the assessor prior to, or within 30 days of, completion of the project that he or she intends to claim the exclusion for seismic retrofitting components. The State Board of Equalization shall prescribe the manner and form for claiming

the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project.

(e) The Legislature finds and declares that the reconstruction and improvement actions that were excluded from “newly constructed” and “new construction” by Chapter 1187 of the Statutes of 1983 meet the requirements of “construction or reconstruction of seismic retrofitting components on an existing structure,” as provided in the act that amended this subdivision. Therefore, a structure constructed of unreinforced masonry bearing wall construction that is receiving a 15-year new construction exclusion as provided by Chapter 1187 of the Statutes of 1983 on the operative date of this act shall continue to receive, pursuant to this section, an exclusion after the 15-year period expires, unless the property is purchased or changes ownership, in which case Chapter 2 (commencing with Section 60) applies.

SEC. 6. Section 74.6 of the Revenue and Taxation Code is amended to read:

74.6. (a) For purposes of paragraph (4) of subdivision (c) of Section 2 of Article XIII A of the California Constitution, “newly constructed” and “new construction” does not include the construction, installation, removal, or modification of any portion or structural component of an existing building or structure to the extent that it is done for the purpose of making the building or structure more accessible to, or more usable by, a disabled person.

(b) For the purposes of this section, “disabled person” means a person who suffers from a physical impairment that substantially limits one or more of that person’s major life activities.

(c) The exclusion provided for in subdivision (a) shall apply to all buildings or structures except for those buildings or structures that qualify for the exclusion provided for in subdivision (a) of Section 74.3.

(d) The exclusion provided for in this section does not apply to the construction of an entirely new building or structure, or to the construction of an entirely new addition to an existing building or structure.

(e) For purposes of the exclusion provided for in subdivision (a), the property owner, primary contractor, civil engineer, or architect shall submit to the assessor a statement that shall identify those specific portions of the project that constitute construction, installation, removal, or modification improvements to the building or structure to make the building or structure more accessible to, or usable by, a disabled person.

(f) For the purposes of the exclusion provided for in subdivision (a), the construction, improvement, modification, or alteration of an existing building or structure may include, but is not limited to, access ramps, widening of doorways and hallways, barrier removal, access modifications to restroom facilities, elevators, and any other accessibility modification of a building or structure that would cause it to meet or exceed the accessibility standards of the 1990 Americans with Disabilities Act (Public Law 101-336) and the most recent edition to the California Building Standards Code that is in effect on the date of the application for a building permit.

(g) In order to receive the exclusion provided for in this section, the property owner shall notify the assessor prior to, or within 30 days of, completion of any project covered by this section that he or she intends to claim the exclusion for making improvements of the type specified in subdivision (a). The State Board of Equalization shall prescribe the manner and form for claiming the exclusion. All documents necessary to support the exclusion shall be filed by the property owner with the assessor not later than six months after the completion of the project.

(h) This section applies to any construction, installation, removal, or modification completed on or after June 7, 1994.

SEC. 7. Section 75.23 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 271.5 is added to the Revenue and Taxation Code, to read:

271.5. (a) In the event that property receiving the college, cemetery, church, religious, exhibition, veterans' organization, tribal housing, or welfare exemption is sold or otherwise transferred, the exemption shall cease to apply on the date of that sale or transfer. A new exemption shall be available subject to the provisions of Section 271.

(b) Termination of the exemption under this section shall result in an escape assessment of the property pursuant to Section 531.1.

SEC. 9. Section 276.2 of the Revenue and Taxation Code is amended to read:

276.2. (a) If property becomes eligible for the disabled veterans' exemption as described in Section 205.5 after the lien date, and an appropriate application for that exemption is filed on the later of 90 days after the date on which the property became eligible or on or before the next following lien date, there shall be canceled or refunded the amount of any taxes, including any interest and penalties thereon, levied on that portion of the assessed value of the property that would have been exempt under a timely and appropriate application.

(b) The entire amount of the exemption applies to any property tax assessment, including a supplemental and escape assessment, that was made and that served as a lien against the property. The exemption amount shall be appropriately prorated from the date the property became eligible for the exemption.

SEC. 10. Section 278 of the Revenue and Taxation Code is amended to read:

278. Prior to the lien date, the assessor shall annually mail a notice to all claimants who received the disabled veterans' exemption in the immediately preceding year, except where such person has transferred title in the property since the immediately preceding lien date. The notice shall inform the taxpayer of the requirements that must be met in order to be eligible for the exemption, of the penalties if the taxpayer allows the exemption to continue when he or she is not eligible for the exemption, and of his or her duty to inform the assessor when he or she is no longer eligible for the exemption.

SEC. 11. Section 483 of the Revenue and Taxation Code is amended to read:

483. (a) If the assessee establishes to the satisfaction of the county board of equalization or the assessment appeals board that the failure to file the change in ownership statement within the time required by subdivision (a) of Section 482 was due to reasonable cause and not due to willful neglect, and has filed the statement with the assessor, the county board of equalization or the assessment appeals board may order the penalty abated, provided the assessee has filed with the county board of equalization or the assessment appeals board a written application for abatement of the penalty no later than 60 days after the date on which the assessee was notified of the penalty.

If the penalty is abated it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

(b) The provisions of subdivision (a) shall not apply in any county in which the board of supervisors adopts a resolution to that effect. In that county the penalty provided for in subdivision (a) of Section 482 shall be abated if the assessee files the change of ownership statement with the assessor no later than 60 days after the date on which the assessee was notified of the penalty.

If the penalty is abated it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

(c) If a person or legal entity establishes to the satisfaction of the county board of equalization or the assessment appeals board that the failure to file the change in ownership statement within the time required by subdivision (b) of Section 482 was due to reasonable cause and not due to willful neglect, and has filed the statement with the State Board of Equalization, the county board of equalization or the assessment appeals board may order the penalty be abated, provided the person or legal entity has filed with the county board of equalization or the assessment appeals board a written application for abatement of the penalty no later than 60 days after the date on which the person or legal entity was notified of the penalty by the assessor.

If the penalty is abated by the county board of equalization or the assessment appeals board, it shall be canceled or refunded in the same manner as an amount of tax erroneously charged or collected.

SEC. 12. Section 531.1 of the Revenue and Taxation Code is amended to read:

531.1. Upon the termination of an exemption pursuant to Section 271.5 or 276.3, upon receipt of a notice pursuant to Section 284, or upon indication from any audit or other source that an exemption has been incorrectly allowed, the assessor shall make a redetermination of eligibility for the exemption. If an exemption or any portion of an exemption has been terminated or has been incorrectly allowed, an escape assessment in the amount of the exemption, or that portion of the exemption that has been terminated or erroneously allowed, with interest as provided in Section 506, shall be made; except that where the exemption was terminated pursuant to Section 271.5 or 276.3 or where the exemption or a portion of the exemption was allowed as the result of an assessor's error, the amount of interest shall

be forgiven. If the exemption was incorrectly allowed because of erroneous or incorrect information submitted by the claimant with knowledge that the information was erroneous or incomplete, the penalty provided in Section 504 shall be added to the assessment.

SEC. 13. Section 830 of the Revenue and Taxation Code is amended to read:

830. (a) If the request of the board is mailed before the lien date as defined in Section 722, the property statement shall be filed with the board by March 1, and shall be in such detail as the board may prescribe.

(b) If the request of the board is mailed on or after the first day of January following the lien date, the property statement shall be filed with the board within 60 days after the request is mailed.

(c) Except as hereinafter provided, if any person fails to file the property statement, in whole or in part, by March 1, or by that later date to which the filing period is extended pursuant to subdivision (b) or Section 830.1, a penalty shall be added to the full value of the assessment of so much of the property as is not timely reported as follows:

(1) For any part of the property statement relating to the development of the unit value of operating property, the penalty shall be 10 percent of the unit value.

(2) For any part of the property statement, not relating to the development of the unit value of operating property, that lists or describes specific operating property, the penalty shall be 10 percent of the allocated value of the property, which penalty shall be added to the unit value.

(3) For any part of the property statement that lists or describes specific nonunitary property, the penalty shall be 10 percent of the value of the property.

(4) If the failure to timely file a property statement is due to a fraudulent or willful attempt to evade the tax, a penalty of 25 percent of the assessed value of the estimated assessment shall be added to the assessment. A willful failure to file a property statement as required by Article 5 (commencing with Section 826) shall be deemed to be a willful attempt to evade the tax.

(5) No penalty added pursuant to paragraph (1), (2), (3), or (4) may exceed twenty million dollars (\$20,000,000) of full value. In addition, if a penalty has been added pursuant to paragraph (1), (2), or (3), if a claim for refund seeking the recovery of that penalty has been filed by the state assessee contesting the penalty within three months of the due date of the second installment, and the state assessee initiates an action in the superior court within one year of the filing of the claim for refund, the state assessee is not subject to any further penalties on subsequent assessments for failure to comply with any subsequent request seeking information or data with respect to the same issue as set forth in the claim for refund filed within the time limits set forth above, until the assessment year after a final decision of the court, and then only with respect to a failure to comply with a request for information with respect to assessments after a final decision of the court. For purposes of this paragraph, "same issue" means the type of information that is the subject of the disputed request for information.

(d) Any person who subscribes to the board's tax rate area change service and who receives a change mailed between April 1 and May 1, shall file a corrected statement no later than May 30 with respect to those parts of the property statement that are affected by the change.

If that person receives a change mailed after May 1, a corrected statement shall be filed no later than the 60th day following the mailing of that change.

(e) Penalties incurred for filings received after June 30 may be included with the assessments for the succeeding fiscal year.

(f) If the assessee establishes to the satisfaction of the board that the failure to file the property statement or any of its parts within the time required by this section was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, in whole or in part, provided the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

SEC. 14. Section 862 of the Revenue and Taxation Code is amended to read:

862. When an assessee, after a request by the board, fails to file a property statement by the date specified in Section 830 or files with the board a property statement or report on a form prescribed by the board with respect to state-assessed property and the statement fails to report any taxable tangible property information accurately, regardless of whether or not this information is available to the assessee, to the extent that these failures cause the board not to assess the property or to assess it at a lower valuation than it would have if the property information had been reported accurately, the property shall be assessed in accordance with Section 864, and a penalty of 10 percent shall be added to the additional assessment. If the failure to report or the failure to report accurately is willful or fraudulent, a penalty of 25 percent shall be added to the additional assessment. If the assessee establishes to the satisfaction of the board that the failure to file an accurate property statement was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, in whole or in part, provided that the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

SEC. 15. Section 1150 of the Revenue and Taxation Code is amended to read:

1150. As used in this article, "certificated aircraft" means aircraft operated by an air carrier or foreign air carrier engaged in air transportation, as defined in Section 40102(a)(2), (5), (6), and (21) of Title 49 of the United States Code, while there is in force a certificate or permit issued by the Federal Aviation Administration, or its successor, authorizing such air carrier to engage in such transportation.

SEC. 16. Section 1154 of the Revenue and Taxation Code is amended to read:

1154. (a) As used in this section, “air taxi” means aircraft used by an air carrier which does not utilize aircraft having a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds in air transportation and which does not hold a certificate of public convenience and necessity or other economic authority issued by the Federal Aviation Administration, or its successor.

(b) Air taxis which are operated in scheduled air taxi operations are not subject to the provisions of Part 10 (commencing with Section 5301) of this division and shall be assessed in accordance with the allocation formula set forth in Section 1152.

(c) All other air taxis shall be assessed in the county where the aircraft is habitually situated in the same manner and at the same ratio as other personal property in the county subject to general property taxation. Such aircraft shall be taxed at the same rate and in the same manner as all other property on the unsecured roll.

SEC. 17. Section 2821 of the Revenue and Taxation Code is amended to read:

2821. Any person filing an affidavit of interest may apply to the tax collector to have any parcel separately valued on the current roll for the purpose of paying taxes. A county may, upon approval of the board of supervisors, require that the applicant notify the property owner.

The application shall be made during the current fiscal year, and shall set forth the fact that a duly executed and recorded deed, purchase contract, deed of trust, mortgage, or final decree of court describes the parcel sought to be separately valued. A county may, upon approval of the board of supervisors, allow these applications between July 1 and March 31.

The application may request that the tax created by the assessment of personal property, or leasehold improvements, or possessory interests on the whole assessment be allowed to remain as a lien on the parcel sought to be separately valued.

If any lien not determined by the application of a tax rate on a valuation of property has been levied or placed on the whole assessment, the application may be accompanied by the certification of the taxing agency or revenue district authorized by law to levy or place the lien, setting forth the specific amount of that portion of the lien levied or placed on the whole assessment which is to continue to be levied or placed on the parcel sought to be separately valued.

The board of supervisors may provide that a parcel with a lien against it and other property, pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) will not be separately valued unless a request has been made to the agency levying the bond lien for a division of land and bond. A copy of the requested division of land and bond shall accompany the request for separate property tax valuation.

Any separations of property pursuant to this section are for valuing property for tax purposes only, and are not intended to create a legal building

site or to supersede requirements pursuant to zoning, building, lot split, or subdivision ordinances.

Once created, an individual interest parcel may be entered as a separate assessment on subsequent assessment rolls until the time that ownership of the interest is conveyed or until the original applicant or his or her agent requests that the parcel be recombined.

Upon authorization by ordinance by the board of supervisors, the county may charge a fee for actual costs incurred for the processing of an application for separate assessment, and the initial and ongoing costs of separate assessment, billings, and mailings. Fees shall be subject to Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code, and may be billed separately or prior to initial separate tax bills, or both, or collected on subsequent tax bills, and shall be deposited in the county's general fund.

SEC. 18. Section 4831 of the Revenue and Taxation Code is amended to read:

4831. Incorrect entries on a roll may be corrected under this article as follows:

(a) (1) Any error or omission not involving the exercise of assessor value judgment may be corrected within four years after the making of the assessment being corrected.

(2) Notwithstanding paragraph (1), the four-year limit shall not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with Section 441) of Chapter 3 of Part 2.

(b) Any error or omission not involving the exercise of assessor value judgment that is discovered as a result of any audit may be corrected within six months after the completion of the audit.

(c) Any error or omission involving the exercise of assessor value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Section 229, and manufactured homes subject to taxation under Part 13 (commencing with Section 5800), as required by paragraph (2) of subdivision (a) of Section 51 shall only be corrected within one year after the making of the assessment that is being corrected.

(d) Taxes that are not a lien or charge on the property assessed may be transferred from the secured roll to the unsecured roll of the corresponding year by the county auditor. These taxes shall be collected in the same manner as other delinquent taxes on the unsecured roll and shall be subject to delinquent penalties in the same manner as taxes transferred to the unsecured roll under Section 5090. The statute of limitations for the collection of those taxes shall commence to run from the date of transfer.

SEC. 19. Section 5303 of the Revenue and Taxation Code is amended to read:

5303. (a) "Aircraft" means any contrivance used or designed for the navigation of or for flight in the air which has been flown at least once, other than a parachute or similar emergency safety device.

(b) “Aircraft” does not include any of the following:

(1) Rockets or missiles.

(2) Aircraft operated exclusively by an air carrier or foreign air carrier, as respectively defined in Section 40102(a)(2) and (21) of Title 49 of the United States Code, engaged in air transportation, as defined in Section 40102(a)(5) of that title, while there is in force a certificate or permit issued by the Federal Aviation Administration, or its successor, authorizing such air carrier to engage in such transportation.

(3) Air taxis, as defined in subdivision (a) of Section 1154.

SEC. 20. Section 11551 of the Revenue and Taxation Code is amended to read:

11551. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. The excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 21. Section 11596 of the Revenue and Taxation Code is amended to read:

11596. If any amount for taxes, penalty, and interest has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records, certify the amount determined to be in excess of the amount legally due and the person against whom the determination was made, and authorize the cancellation of the amount upon the records of the board. Any proposed determination by the board pursuant to this section with respect to an amount in excess of fifty thousand dollars (\$50,000) shall be available as a public record for at least 10 days prior to the effective date of that determination.

SEC. 22. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 23. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

Memorandum

To: Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner, Second District
Honorable John Chiang, State Controller

Date: May 9, 2012

From: Randy Ferris, Chief Counsel 
David Gau, Deputy Director 
Property and Special Taxes Department

Subject: **Board Meeting, May 30-31, 2012**
Chief Counsel Matters - Item J - Rulemaking
Proposed Rule 100 Change to Property Tax Rule 263

We request your authorization to complete Rule 100 changes to Property Tax Rule 263, *Roll Corrections*. The changes reformat subdivision (a), incorporate the amendments made to Revenue and Taxation Code section 4831 by Senate Bill No. 947 (Stats. 2011, ch. 351) into subdivision (b), and replace "Section" with "section" in subdivision (g) of the rule. The attached Statement of Explanation includes a detailed description of the proposed changes and a strikeout and underlined version of the rule illustrating the proposed changes. The changes are appropriate for processing under Rule 100 without the normal notice and public hearing process because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

If you have any questions regarding this request, please let me know or contact Mr. Bradley Heller, at (916) 323-3091.

Recommendation by:

Approved:



Randy Ferris, Chief Counsel



Kristine Cazadd, Executive Director

Approved:

BOARD APPROVED

At the 5/31/12 Board Meeting


David Gau, Deputy Director
Property and Special Taxes Department


Joann Richmond, Chief
Board Proceedings Division

Attachment

Statement of Explanation for Changes to Property Tax Rule 263, *Roll Corrections*.

cc (with attachments):

Ms. Joann Richmond	MIC:80
Ms. Christine Bisauta	MIC:82
Mr. Richard Moon	MIC:82
Mr. Bradley Heller	MIC:82
Mr. Dean Kinnee	MIC:64
Ms. Glenna Schultz	MIC:64

CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenues Rule 263, *Roll Corrections*

A. Factual Basis

Chapter 2 (commencing with section 101) of division 1 of title 18 of the California Code of Regulations contains property tax rules the State Board of Equalization (BOE) has adopted in accordance with Government Code section 15606 to govern county assessors when assessing property under division 1, *Property Taxation*, (commencing with section 50) of the Revenue and Taxation Code (RTC). The BOE hereby proposes to reformat subdivision (a) of California Code of Regulations, title 18, section (Rule) 263, *Roll Corrections*, change subdivision (b) of Rule 263 to incorporate the amendments made to RTC section 4831 by Senate Bill No. (SB) 947 (Stats. 2011, ch. 351.), and replace “Section” with “section” in subdivision (g) of Rule 263 under California Code of Regulations, title 1, section (Rule) 100.

The second sentence in subdivision (a) of Rule 263 is formatted as subdivision (a)(1), even though the extra formatting is unnecessary because subdivision (a) only contains two sentences and there is no subdivision (a)(2). Accordingly, the BOE now proposes to reformat subdivision (a), under Rule 100, so that there is no longer a separate subdivision (a)(1).

RTC section 4831 prescribes the periods in which county assessors are authorized to correct errors and omissions on county assessment rolls and Rule 263, subdivision (b), incorporates the provisions of RTC section 4831, subdivision (c), prescribing the period in which an assessor is authorized to correct an “error or omission involving the exercise of assessor value judgment that arises solely from a failure to reflect a decline in the taxable value” of real property. Section 18 of SB 947 amended section 4831, subdivision (c), so that its provisions apply to errors and omissions involving “floating homes subject to taxation pursuant to Section 229 [of the RTC], and manufactured homes subject to taxation under Part 13 (commencing with section 5800)” of the RTC, in addition to errors and omissions regarding real property. Accordingly, the BOE proposes to change subdivision (b) of Rule 263, under Rule 100, to incorporate the amendments made to RTC section 4831 by SB 947.

Furthermore, subdivisions (b), (c), and (d) of Rule 263 use the term “section” to refer to sections of the RTC; however, subdivision (g) of Rule 263 uses the term “Section” to refer to RTC section 441. Accordingly, the BOE proposes to replace “Section” with “section” in Rule 263, subdivision (g), under Rule 100 so that the rule consistently uses the term “section” to refer to RTC sections.

B. Proposed Changes

Reformat Rule 263, subdivision (a), incorporate the amendments made to RTC section 4831 by SB 947 into Rule 263, subdivision (b), and replace “Section” with “section” in Rule 263, subdivision (g), under Rule 100.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, the changes are necessary to update the format of Rule 263, subdivision (a), make the rule consistent with the amendments made to RTC section 4831 by SB 947, and ensure that the rule uses consistent terminology to refer to RTC sections.

PROPOSED CHANGES

Change Rule 263 (Roll Corrections) to read as follows:

Property Tax Rule 263. Roll Corrections.

(a) Any error or omission not involving the exercise of value judgment which results in an incorrect entry or entries on the roll may be corrected after the roll is delivered to the auditor, provided that the correction is made within four years after the making of the assessment that is being corrected.

~~(4)~~ If an error or omission not involving the exercise of value judgment is discovered as the result of an audit of a taxpayer's books and records, that error or omission may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property, floating homes subject to taxation pursuant to Revenue and Taxation Code section 229, and manufactured homes subject to taxation under Part 13 (commencing with section 5800) of the Revenue and Taxation Code, as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51, shall be corrected within one year after the making of the assessment that is being corrected.

(c) Any incorrect entry on the roll resulting from a defect of description or clerical error, as determined by the assessor upon audit, made by the assessee in the property statement or in other information or records which causes the assessor to assess taxable tangible property which was not subject to assessment or to assess taxable tangible property at a substantially higher value may be corrected under this article. The correction shall be made after the roll is delivered to the auditor within the time period for making escape assessments as provided in sections 532 and 532.1. The change to be made on the roll shall be certified to the auditor by the assessor.

(d) If a correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under section 1605 and the procedure for applying for cancellation under section 4986.

(e) If a correction will decrease the amount of unpaid taxes, the consent of the board of supervisors is necessary to make the correction.

(f) Corrections authorized under this rule shall be made by the auditor upon delivery of the relevant information by the assessor.

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with ~~section~~Section 441) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

(h) If the roll of any taxing agency in the course of preparation is lost or destroyed because of public calamity and is reconstructed from available data, at any time before the declaration of default, the assessor may correct any erroneous assessment. The assessor shall:

(1) Send certified notices of the correction to the tax collector, the auditor, and the Controller.

(2) Enter the date and nature of the correction with reference to the property for which the correction is being made

(i) On receipt of satisfactory, verified, written evidence that taxes have been entered on the secured roll as a lien on real property on which they are not legally a lien, the assessor shall transmit the evidence and his or her cancellation to the auditor. On direction of the board of supervisors, the auditor shall cancel the entry as a lien on that real property and reenter such taxes as follows:

(1) If the assessee has real property sufficient, in the assessor's opinion, to secure the payment of the taxes, as a lien on real property.

(2) Where there is not sufficient real property to secure the taxes on locally-assessed property, the taxes shall be placed on the unsecured roll. In the case of state-assessed property, the taxes shall be placed on the secured roll.

Note: Authority cited: Section 15606, Government Code. Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

2012 MINUTES OF THE STATE BOARD OF EQUALIZATION**Thursday, May 31 2012****CHIEF COUNSEL MATTERS****RULEMAKING****J1 Section 100 Changes to Specified Special Taxes and Fees Regulations**

Bradley Heller, Tax Counsel IV, Tax and Fee Programs Division, Legal Department, requested authorization to complete Rule 100 changes to amend specified Diesel Fuel Tax Law, Integrated Waste Management Fee Law, Motor Vehicle Fuel Tax Law, and Underground Storage Tank Maintenance Fee Law regulations (Exhibit 5.4).

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the section 100 changes as recommended by staff.

J2 Section 100 Changes to Property Tax Rule 263, *Roll Corrections*

Bradley Heller, Tax Counsel IV, Tax and Fee Programs Division, Legal Department, requested authorization to complete Rule 100 changes to incorporate amendments made to Revenue and Taxation Code section 4831 by Senate Bill No. 947 (2011) (Exhibit 5.5).

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board adopted the section 100 changes as recommended by staff.

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

MAY 31, 2012

CHIEF COUNSEL MATTERS

ITEM J RULEMAKING

J2 PROPERTY TAX RULE 263

ROLL CORRECTIONS

Reported by: Juli Price Jackson

No. CSR 5214

P R E S E N T

For the Board
of Equalization:

Jerome E. Horton
Chairman

Michelle Steel
Vice-Chairwoman

Betty T. Yee
Member

George Runner
Member

Marcy Jo Mandel
Appearing for John
Chiang, State
Controller (per
Government Code
Section 7.9)

Joann Richmond
Chief, Board
Proceedings Division

For Staff:

Bradley Heller
Tax Counsel IV
Tax and Fee Division
Legal Department

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450 N STREET
SACRAMENTO, CALIFORNIA
MAY 31, 2012

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MR. HORTON: Ms. Richmond.

MS. RICHMOND: Our next item is J2, Property
Tax Rule 263, Roll Corrections.

MR. HORTON: Welcome again.

MR. HELLER: Thank you.

Again I'm Bradley Heller from the Board's Legal
Department.

And I'm requesting the Board's authorization to
complete a Rule 100 change to Property Tax Rule 263.
And the -- the changes, essentially, update the rule to
incorporate changes made by SB 947 and also make a few
other grammatical and formatting changes.

MS. STEEL: So moved.

MR. HORTON: Thank you.

Moved by Member Steel, second by Member Yee.

Without objection, such will be the order.

MR. HELLER: Thank you.

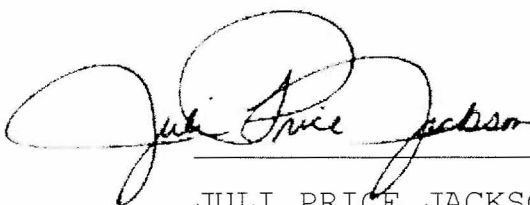
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1 REPORTER'S CERTIFICATE.
2

3 State of California)
4) ss
5 County of Sacramento)
6

7 I, JULI PRICE JACKSON, Hearing Reporter for the
8 California State Board of Equalization certify that on
9 MAY 31, 2012 I recorded verbatim, in shorthand, to the
10 best of my ability, the proceedings in the
11 above-entitled hearing; that I transcribed the shorthand
12 writing into typewriting; and that the preceding pages 1
13 through 3 constitute a complete and accurate
14 transcription of the shorthand writing.
15

16 Dated: June 7, 2012

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20 JULI PRICE JACKSON

21 Hearing Reporter
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